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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,926	04/08/2005	Delford Ian Christmas	102792-58 (11135P3)	9146
27389 7590 10/02/2008 NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022				
EXAMINER NATHAN, SHYAM				
ART UNIT		PAPER NUMBER		
4161				
MAIL DATE		DELIVERY MODE		
10/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/530,926

Applicant(s)

CHRISTMAS ET AL.

Examiner

SHYAM NATHAN

Art Unit

4161

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 10-21, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-5, 10-21, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date 04/08/2005
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's election with traverse of Group I, claims 1-5, 10-21, 24-25 and election of species for claim 3, o-benzyl-p-chlorophenol and claim 4, C₁₋₄ alcohols in the reply filed on 08/27/2008 is acknowledged. The traversal is on the ground(s) that the 'nature of the claimed compounds' are sufficiently similar such that a single coextensive search of the prior art relating to the currently claimed invention may be made, and without imposing an undue burden on EXAMINER. This is not found persuasive because art found on a composition claim in Group I was not the same as art found in the method/process claim, in group II (claim 30). Furthermore, election of species was deemed proper because of the extensive number of species that would have been an undue search burden for EXAMINER.

The requirement is still deemed proper and is therefore made FINAL.

Claim 30 is withdrawn. This is the first Office Action on the merits of the claims.

Priority

The earliest effective US filing date afforded the instantly claimed invention has been determined to be 10/10/2003, the filing date of PCT/GB03/04419. The ADS should be revised to recite the filing date of PCT/GB03/04419, or a statement of priority reciting the relevant dates of filings should be inserted at the top of page 1 of the specification.

Claim Objections

Claim 24 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim *should refer to other claims in the alternative only--, and/or, --cannot depend from any other multiple dependent claim*. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-2,4-5,10-15,25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michael (US Patent No. 5,540,864 ; Issued Jul.30,1996).

Instant claim 1 is drawn to a hard surface cleaning concentrate composition comprising:
a) at least one non-cationic antimicrobial agent;

b) at least one solvent selected from water soluble organic solvent, water insoluble organic solvent, terpenes, essential oil, and mixtures thereof;

c) an anionic soap surfactant;

d) at least one surfactant selected from nonionic surfactant, anionic surfactant excluding the anionic soap of c), and mixtures thereof;

e) Optionally, one or more alkanolamines;

f) optionally, one or more conventional constituents selected from dyes, colorants, fragrances and fragrance solubilizers/enhancers, light stabilizers, viscosity modifying agents, pH adjusting agents and pH buffers including organic and inorganic salts, optical brighteners, opacifying agents, hydrotropes, antifoaming agents, enzymes, anti-spotting agents, anti-oxidants, preservatives, and anti-corrosion agents; and

g) the balance, water

characterized in that the concentrate compositions are mixed with water in dilution of 1 part concentrate composition to 50-200 parts water at 20° C., the resultant mixture exhibits a light transmittance loss of at least 30%.

Michael '864 teaches of a detergent composition that comprises benzyl alcohol (Abstract and column 7, lines 45-48, Abstract and column 10, lines 60-65), which is the non-ionic microbial agent. The composition, further comprises, pine oil (Abstract and column 7, lines 45-48) ,d-limonene(Abstract and column 10, line 67,Abstract and column 11, line 13), which is the essential oil mix, and ethanol(Abstract and column 8, lines 15-

20), which is the C₁₄ alcohol and a water soluble organic solvent. The composition, further comprises the sodium salt of a coconut alkyl ether sulfate, which has 11-15 carbon atoms (coconut soaps)(Abstract and column 4, lines 22-30), and is an alkali metal soap of fatty acid and an anionic soap surfactant. The composition, further comprises, additional anionic and nonionic detergent surfactants (Abstract and column 3, lines 55-60). The composition, further comprises, a beta-alkanolamine (Abstract and column 5, lines 10-15). And lastly, the composition of Michael '864 comprises colorants and inorganic salts.(Abstract and column 8, lines 30-60) and water (Abstract and column 8, lines 15-25) including deionized water(Abtract and column 11-13, ex I-III) , to balance the composition.

Furthermore, the ratios of the compounds in the composition (CLAIMS 14-15) can be optimized by routine experimentation, depending on the amount of antimicrobial agent and anionic soap surfactant is preferred.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Michael (US Patent No. 5,540,864 ; Issued Jul.30,1996) as evidenced by Dangman, et al(US patent No. 5,335,373; Issued Aug. 9, 1994), as applied to claims 1-2 above, and further in view of Scepanski (US Patent No. 5,977,183; Issued Nov.2,1999).

Michael ' 864 teaches of a liquid hard surface detergent composition as stated above. But , Michael ' 864 does not mention o-benzyl p-chlorophenol.

Dangman et al. teaches that both o- benzyl-p-chlorophenol and benzyl alcohol, which is taught in Michael '864, as antiseptic/antimicrobial compositions (Abstract and column 26 and 27).

Scepanksi '183 teaches of cleaning compounds with antimicrobial activity that comprise o-benzyl p-chlorophenol.

It would be prima facie obvious for one of ordinary skill in the art to add o-benzyl p-chlorophenol to the composition of Michael '864 because benzyl alcohol which is in the composition of Michael .864 is disclosed as a antiseptic/antimicrobial compound just as o-benzyl p-chlorophenol. Therefore, it would be obvious because o-benzyl p-chlorophenol is a non-cationic antimicrobial agent, which satisfies the limitation in claim 1.

Claims 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michael (US Patent No. 5,540,864 ; Issued Jul.30,1996), as applied to claim 1-2 above, and further in view of Bischof et al.(US patent No. 4,666,940; issued May 19,1987), Jan.6, 1976).

Michael ' 864 teaches of a liquid hard surface detergent composition as stated above. But does not disclose the nonionic surfactant as alkylphenol ethoxylate and the anionic surfactant is a sulfate or sulfonate.

Bischof et al. teaches of a cleaning composition that comprises olefinsulfonate , which is anionic sulfonate surfactant and alkylphenol ethoxylate, which is a nonionic surfactant.

It would be prima facie obvious to one of ordinary skill in the art to add the olefinsulfonate and alkylphenol ethoxylate to the composition of Michael '864 because both Michael and Bischof et al. are cleaning/detergent compositions and Michael '864 teaches anionic and nonionic surfactants in his composition. Therefore, one can substitute or add olefinsulfonate and alkylphenol ethoxylate to the composition of Michael '864 as surfactants to lower the surface tension of a liquid composition.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHYAM NATHAN whose telephone number is (571)270-5753. The examiner can normally be reached on Mon-Thurs 8:30a.m. - 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Nolan can be reached on 571-272-0847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SN

/Ashwin Mehta/
Primary Examiner, Technology Center 1600